

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 ROBERT G. GREENE, on behalf of himself and all)
4 others similarly situated,)

5 Plaintiffs,)

6 vs.)

7 EXECUTIVE COACH AND CARRIAGE, a Nevada)
8 Corporation; and Does 1-50, inclusive,)

9 Defendant.)

10 THOMAS THATCHER SCHEMKES, et al.,)

11 Plaintiffs,)

12 vs.)

13 JACOB TRANSPORTATION SERVICES, LLC, a)
14 Nevada Company, doing business as Executive Las)
15 Vegas, et al.)

16 Defendants.)

17 JACOB TRANSPORTATION SERVICES, LLC)

18 Counterclaimant,)

19 vs.)

20 THOMAS THATCHER SCHEMKES, and)
21 GREGORY GREEN,)

22 Counterdefendants.)
23)

Case No.: 2:09-cv-466-GMN-RJJ
consolidated with:
2:11-cv-355-GMN-RJJ

ORDER

24 Before the Court is Plaintiff's Motion to Approve Notice of Collective Action Under the
25 FLSA (ECF No. 65), Plaintiff Robert Greene's Motion to Appoint Lead Plaintiff and to

1 Substitute Notice of Collective Action (ECF No. 76) and Plaintiff Robert Greene's Motion to
2 Reconsider the Magistrate Judge's Order 113 (ECF No. 116).

3 In addition to the reasons stated at the February 14, 2012 hearing the Court makes the
4 following determinations.

5 The Court DENIES Plaintiff's Motion to Approve Notice of Collective Action (ECF 65)
6 because Sharon Preston (counsel who submitted the motion) is no longer counsel for many of the
7 Plaintiffs in these consolidated cases. Ms. Preston did not appear at the hearing to defend her
8 motion and the attorney who did appear to represent Plaintiff at the hearing, Mr. Kuller, prefers
9 to submit his own notice of collective action. As the parties represented that Ms. Preston may no
10 longer be seeking to be involved to the same degree as when the motion was filed, there exists an
11 issue as to whether the notice should include Ms. Preston's letterhead given the confusion as to
12 her new limited role in the cases. The two counsels who did appear at the hearing indicated a
13 willingness to work together and attempt to submit a new joint proposed notice.

14 The Court DENIES Plaintiff Robert Greene's Motion to Appoint Lead Plaintiff and to
15 Substitute Notice of Collective Action (ECF No. 76) because there is a pending motion before
16 the Magistrate Judge regarding Mr. Greene's failure to appear for his deposition. The Court
17 cannot determine at this time if Mr. Greene would make an adequate lead Plaintiff based on the
18 allegations in the pending motion.

19 The Court DENIES Plaintiff Robert Greene's Motion to Reconsider (ECF No. 116).
20 Having reviewed the Magistrate Judge's Order, the Court does not find that the ruling was clearly
21 erroneous or contrary to law. Local Rule IB 3-1.


22 **IT IS HEREBY ORDERED** that Plaintiffs' Motion to Approve Notice of Collective
23 Action Under the FLSA (ECF No. 65) is **DENIED without prejudice**. Plaintiffs shall submit a
24 new motion for approval of the notice within **thirty (30) days of the date of this Order**.

25 **IT IS FURTHER ORDERED** that Plaintiff Robert Greene's Motion to Appoint Lead

1 Plaintiff and to Substitute Notice of Collective Action (ECF No. 76) is **DENIED without**
2 **prejudice.**

3 **IT IS FURTHER ORDERED** that Plaintiff Robert Greene's Motion to Reconsider the
4 Magistrate Judge's Order 113 (ECF No. 116) is **DENIED.**

5 **DATED** this 17th day of February, 2012.

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Gloria M. Navarro
United States District Judge